IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

SECOND APPEAL NO.173 OF 2006

Khema Gunda Kamble
since deceased through his
heirs and legal representatives
Ambubai Khema Kamble & ors. : Appellants.

versus

Namdeo Manu Kamble
since deceased through his
heirs and legal representatives
Tanubai Namdo Kamble & ors. : Respondents.

Mr.Parag Shelke h/f Mr.A.M.Kulkarni for the appellants.

Mr.Madhav Jamdar for Respondent Nos.1A to 1E.

Mr.Uday Warunjikar for Respondent No.2.

CORAM : D.B.BHOSALE, J.
DATED : JULY 10, 2007.

P.C.

1. Heard the learned counsel for the parties.

2.. This appeal is directed against concurring judgments of the Courts below, dismissing a suit filed by the appellants/plaintiffs for injunction and

possession of the suit properties.

3. Mr.Parag Shelke, learned advocate appearing for the appellants, raised only one contention. He submitted that implementation of Consolidation Scheme cannot have an overriding effect on the provisions of Watan Abolition Act while considering an issue of title of the original Watandar's i.e. Appellants in the present case.

4. At the out set let me record that such a contention was not raised either before the trial Court or before the 1st appellate court. In view of the findings on the Issues framed by the Courts below that the defendants became the owners by adverse possession, this contention urged by the learned advocate for the appellants cannot have any effect on the impugned judgments. Both the courts below, after having considered the over all facts and circumstances of the case and the evidence on record, have come to the conclusion that the appellants/plaintiffs have failed to prove that they are owners of the suit land and they were in exclusive possession thereof on the date of the suit. As a matter of

fact, the appellate court has held that the suit land is owned and possessed by defendant No.1 and defendant No.2. Considering the findings on facts recorded by the courts below and as I find sufficient material on record to sustain those findings and considering that no substantial question of law is involved, this appeal fails and is dismissed as such.

[D.B.BHOSALE, J]